

EXHIBIT A



Sheppard, Mullin, Richter & Hampton LLP
30 Rockefeller Plaza
New York, New York 10112-0015
212.653.8700 main
212.653.8701 fax
www.sheppardmullin.com

Daniel L. Brown
212-6634-3095 direct
dlbrown@sheppardmullin.com

File Number: 11TL-266811

December 3, 2018

VIA E-MAIL

Arick Fudali, Esq.
The Bloom Firm
20700 Ventura Blvd., Suite 301
Woodland Hills, CA 91367
E-Mail: arick@thebloomfirm.com

Re: Jason Boyce v. Bruce Weber et al./ Index No. 160630/2017

Dear Arick:

I am writing to follow up on our prior meet and confer efforts regarding Plaintiff's responses and objections to Defendants' First Request for Production of Documents (the "Requests").

Please provide all documents requested within seven (7) days of receipt of this letter. If we cannot resolve these issues immediately, we will seek relief from the Court. As always, we are available to meet and confer in order to reach a consensual resolution of these issues.

A. Outstanding Deficiencies On Plaintiff's Responses to Defendant's Document Requests

1. Plaintiff Failed To Produce Documents Promised Seven Months Ago

On March 23, 2018, Plaintiff provided its initial response to the Defendant's First Request for Documents ("Initial Response"). On April 10, 2018, I wrote a meet and confer letter regarding Plaintiff's responses and objections to the Requests and Interrogatories. On May 9, 2018, we had a meet and confer teleconference. On June 1, 2018, at page 1, you wrote to me stating, with respect to the Requests, that:

Plaintiff is providing supplemental responses to the Requests. This letter is to address unresolved discovery issues

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On June 1, 2018, Plaintiff served his Supplemental Response to the Requests (“Supplemental Response”), in which Plaintiff agreed to produce documents (subject to certain objections, as discussed below) in response the Requests that are listed in your Supplement Response, *i.e.*, Requests No. 2, 3, 6, 7, 10, 12, 13, 14, 15, 16, 19, 20, 26, 37, 38, 39, 40, 41, 42, and 43.

That was seven months ago, and yet none almost no documents have since been produced. Therefore, we demand that these promised documents be produced *immediately*.

2. Plaintiff’s Responses Improperly Made “Subject to” Objections

As noted, Plaintiff agreed, in his Supplemental Response, to produce documents with respect to the certain requests. However, aside from failing to produce the documents Plaintiff promised to produce seven months ago, the Supplemental Response, in almost all instances, promises to produce responsive documents only “subject to” Plaintiff’s new objections, as well as the objections in Plaintiff’s Initial Response.

Responses made “subject to” objections permit Plaintiff to selectively withhold documents responsive to the Requests, and produce only the responsive documents Plaintiff wants to produce. Of course, discovery does not work that way. A party cannot unilaterally determine that certain responsive documents will never see the light of day.

Therefore, for each of the Requests, within seven (7) days of receipt of this letter, we demand that Plaintiff: (i) produce all responsive documents being withheld on the basis of Plaintiff’s new or old objections, or (ii) confirm in writing that no documents are being withheld.

Insofar as Plaintiff is withholding responsive documents on the basis of privilege, you must produce a sufficient privilege log of (i) anything withheld on a privilege basis up until the date of the filing of the Complaint, and (ii) all communications (without date restriction) that include people other than Plaintiff and trial counsel immediately, which describes the document(s), and identifies the privilege holder, the recipients, and the applicable privilege.

3. Request-By-Request - Improper Objections and Other Deficiencies

Request No. 2

This Request seeks documents relating to Plaintiff’s employment or potential employment, which is clearly a proper subject for discovery. Yet, Plaintiff’s Supplemental Response maintains the boilerplate objections (e.g., undue burden and privacy) listed in Plaintiff’s initial response to the Requests (“Initial Response”) while *at the same time* agreeing to produce responsive documents. As noted, this amounts to a promise to selectively produce responsive documents. A party does not get to use boilerplate objections like “privacy” and “undue burden” to decide which

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responsive documents it wants to produce and which responsive documents to shield from production on the basis of the boilerplate objections.

Therefore, produce all responsive documents that Plaintiff promised to produce seven months ago in the Supplemental Response, and produce all responsive documents withheld on the basis of Plaintiff's objections for Request No. 2, or confirm that none are being withheld.

Request No. 3

This request seeks communications between Plaintiff and others. However, with the exception of communications involving only Plaintiff and his trial counsel, none of the responsive documents are likely to be subject to Plaintiff's attorney-client privilege. Nevertheless, Plaintiff objected to this Request, in its Initial and Supplemental Responses, on the basis of privilege while at the same time agreeing to produce responsive documents "subject to" Plaintiff's privilege objections (which still have not been produced). Plaintiff's promise to produce responsive documents is also made "subject to" the objection that "publicly available media" is purportedly available by other means, even though in the Initial Response, you agreed to produce these very same materials. Plaintiff's promise to produce is also made "subject to Defendant's boilerplate objections from the Initial Response. It is also improper to withhold responsive documents on the basis that the requester has other means of obtaining the discovery.

Accordingly, first, produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response. Second, produce all responsive documents being withheld due to your new and old objections. With respect to responsive documents withheld on the basis of privilege, to the extent, you believe any responsive documents truly are privileged, provide a sufficient privilege log identifying those documents..

Request No. 4

This Request seeks "All documents relating to your engagement of counsel in connection with the allegations in the Complaint."

In your Initial Response, Plaintiff objected to the entire Request on the basis of privilege and refused to produce any responsive documents, but failed to provide a privilege log. In your June 1, 2018 letter, Plaintiff also contended that the requested discovery is not reasonably calculated to lead to the discovery of admissible evidence, and specified that responsive documents are being withheld as privileged even when a party other than Plaintiff and trial counsel are on the communication, but again Plaintiff failed to provide a privilege log.

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Plaintiff's position is frivolous. Retainer agreements are not privileged and are regularly produced.¹ If the retainer agreement truly includes a request for, or provision of, legal advice, that portion of the retainer letter can be redacted and logged.

Therefore, produce all responsive documents, including the retainer agreement. If you believe that any responsive documents are privileged, they need to be logged with sufficient information.

Request No. 6

This Request seeks all documents relating to your December 5, 2017 press conference. As the press conference was about this case, it is subject to discovery. You agreed to produce responsive documents "subject" to and to your new and old objections. To wit, in the Supplemental Response, you objected to producing documents allegedly available to Defendants through other means and on the basis of the attorney-client privilege and common interest doctrine, and in the Initial Response you also included boilerplate objections. You also improperly object and appear to be improperly withholding responsive documents on the basis that there are other means of obtaining the discovery.

This is improper. First, produce all responsive documents that you agreed to produce seven months ago. Second, produce all responsive documents being withheld due to your objections, or confirm that there are none. To the extent that responsive documents are being withheld on privilege grounds, provide a sufficient privilege log for those documents.

Request No. 7

This Request seeks all documents relating to certain articles or publications about this matter, which is plainly a proper subject for discovery. You agreed to produce responsive documents "subject" to old boilerplate objections and then added in your Supplemental response your new objection that documents are publicly available. Please read the request carefully. We are not asking for published articles in the public domain. We are asking for any documents, emails, texts, and correspondence relating to the articles written between Plaintiff, Plaintiff's counsel and the authors, specifically identified as Jessica Pressler, Vanessa Friedman, Mathew

¹ The attorney-client privilege "is not served by protecting information about client awards and fee arrangements from disclosure except where disclosure of such information would "amount to the prejudicial disclosure of a confidential communication.'" *In re Two Grand Jury Subpoenae Duces Tecum Dated Aug. 21, 1985*, 793 F.2d 69, 71 (2d Cir. 1986) (citing *In re Grand Jury Subpoena Duces Tecum (Shargel)*, 742 F.2d 61, 64 (2d Cir.1984). As such, New York courts "have consistently held that, 'absent special circumstances, client identity and fee information are not privileged.'" *Id.*, 793 F.2d at 71 (citing *In re Grand Jury Subpoena Served Upon John Doe, Esq.*, 781 F.2d 238, 247 (2d Cir. 1986). The circumstances of Plaintiff's hiring of counsel, and the terms of any such engagement, are relevant Plaintiff's motive in filing a lawsuit, damages, and for other reasons.

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Schneier, and Jacob Bernstein. Any communications about subsequent articles should also be produced.

Moreover, your original response that we should search the Twitter feed of counsel Bloom is outrageous and improper. Among other things, it is doubtful that any discussions, emails or texts with reporters will be found on Twitter.

In sum, we demand that Plaintiff produce the responsive documents Plaintiff promised to produce seven months ago in the Supplemental Response, and produce all responsive documents withheld on the basis of objections.

Request No. 8

Request No. 8 seeks “All professional and amateur photographs, and videos, of Plaintiff and all communications regarding same.” Defendants subsequently agreed to narrow Request No. 8 to all photographs or videos that Plaintiff sent to or received from professional photographers, and all related communications from December 2013 through December 2015.

Nonetheless, in your June 1, 2018 letter, Plaintiff continues to object to the request on relevance grounds. However, photographs or videos that Plaintiff sent to or received from professional photographers go to the core of the case, *i.e.*, Plaintiff’s dealings with photographers such as Mr. Weber, as well as Plaintiff’s motives, expectations, and alleged shock at what allegedly occurred at the shoot with Mr. Weber on December 14, 2014.

Accordingly, produce all documents responsive to Defendants’ Request No. 8 as narrowed.

Requests Nos. 9 and 10

These Requests seek documents regarding Plaintiff’s employment or potential employment. In your June 1, 2018 letter you promised to produce, for both Requests, all non-privileged, responsive documents “related to Plaintiff’s professional modeling opportunities, such as proof of employment, proof of payment, contracts, and other evidence of employment relationships” dating back to January 2010. As an initial matter, we did not agree to limit the timeframe for discovery relating to Plaintiff’s modeling career. In addition, and in any event no documents have since been produced, nor has a privilege log been provided.

Therefore, produce the responsive documents you agreed to produce seven months ago in the Supplemental Response as well as documents relating to Plaintiff’s modeling career (without a time limitation), and log all responsive documents withheld on privilege grounds.

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Request No. 12

This Request seeks documents regarding Plaintiff's earnings. In the Supplemental Response, you agreed to produce responsive documents, dating from 2010 to the present, but only "subject to" your new and old boilerplate objections. [Yet, no responsive documents were then produced. Moreover, as stated above, we did not agree to limit the timeframe for discovery relating to Plaintiff's modeling career.

Produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response, and all responsive documents being withheld due to your objections, or confirm that there are none.

I also note that, in your June 1, 2018 letter, sent on the same day you sent the Supplemental Response, you state you will provide these documents when you receive them from third-parties. Please advise what third parties you are waiting for to deliver those documents and please identify what you requested and when.

Request No. 13

This Request seeks Plaintiff's tax returns. In the Supplemental Response, you agreed to produce tax filings sufficient to show income earned and sources of the income, dating from 2010 to the present, but only "subject to" your new and old boilerplate objections. While it appears prior to June 1, 2018, Plaintiff provided a few W-2's, they are redacted and therefore incomplete. This is improper. We were never provided the tax information promised on June 1, 2018, which would reflect earned income and the sources of same. In addition, as stated above, we did not agree to limit the timeframe for discovery relating to Plaintiff's modeling career.

Accordingly, produce all responsive documents that you agreed to produce seven months ago and all responsive documents being withheld due to your objections, including, but not limited to, tax returns, 1099s and W-2s.

Request No. 14

This Request seeks Plaintiff's internet postings concerning or mentioning modeling from 2010 to the present. In the Supplemental Response, you agreed to produce responsive documents but only "subject to" boilerplate objections interposed in the Supplemental Response and only with the Request allegedly being narrowed by Defendants to "any posting concerning Bruce Weber, Jason Kanner, Soul Artists, and the lawsuit." Even with these unilateral limitations, no responsive documents were then produced.

This is improper. Produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response and all responsive documents being withheld due to your objections, or confirm that there are none.

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Request No. 15

This Request concerns communications with Mark Ricketson since January 1, 2014. In the Supplemental Response, you agreed to produce responsive documents, but only “subject to” your new and old boilerplate objections. Yet, no responsive documents were then produced.

Please produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response.

In Plaintiff’s Initial Response, Plaintiff had the audacity to respond that we should see your response to Request Number 3 regarding the Lisa Bloom press conference and your response to Request No. 6 regarding Ms. Bloom’s Twitter feed. This is highly improper. We remind counsel this is not a publicity tour for Ms. Bloom; this is a lawsuit where the rules of procedure govern.

Request No. 16

This Request seeks all documents relating to *Male Models Anonymous*. In the Supplemental Response, you agreed to produce responsive documents, but only “subject to” your old boilerplate objections. Yet, no responsive documents were then produced.

This is improper. Produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response and all responsive documents being withheld due to your objections, or confirm that there are none.

Request No. 18

Request No. 18 seeks reports regarding Plaintiff’s complaints of discrimination, harassment, or retaliation. In the Initial Response, Plaintiff interposed boilerplate objections, and then stated that “subject to” the boilerplate objections, no responsive document exists. This is improper.

Produce all responsive documents withheld on the basis of your boilerplate objections, or confirm none were withheld.

Request No. 19

This Request seeks all communications with Jason Kanner and/or Soul Artists. In the Supplemental Response, you agreed to produce responsive documents, but only “subject to” your old boilerplate objections. Yet, no responsive documents were then produced.

This is improper. Produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response and all responsive documents being withheld due to your objections, or confirm that there are none.

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Request No. 20

This Request seeks all documents relating to Jason Kanner and/or Soul Artists. In the Supplemental Response, you agreed to produce responsive documents, but only “subject to” your old boilerplate objections. Your original response that you are waiting for third parties to send them to you is unreasonable at this point; seven months after the request was allegedly made. Please identify what third parties you are waiting to receive documents from and when and what you requested to comply with this request.

Please produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response and all responsive documents being withheld due to your objections, or confirm that there are none.

Request 21

This Request seeks documents relating to Plaintiff’s allegation in Paragraph 10 of the Complaint, and quotes the pertinent clause from the Complaint (“models are targets for sexual harassment by these decision makers who control their careers and livelihood). In the Initial Response, Plaintiff states that he refuses to even try to search for documents that relate to his own allegation. This is improper. Produce all responsive documents.

Request No. 22

This Request seeks documents relating to Plaintiff’s allegation in Paragraph 28 that “Mr. Boyce, who had been photographed numerous times in the past, was then subjected to a series of practices that were unlike any he had experienced previously.” In the Initial Response, Plaintiff (a) objects to the wording of the request which is a quote from his own Complaint, (b) objects that the information is equally available to both sides, which besides being an improper objection, makes no sense because only Plaintiff can represent what he claims took place at the shoot, (c) and then states that, “subject to” these objections, Plaintiff was willing to search for responsive documents and knew what to search for, but will not produce responsive documents because of the existence of certain other Requests (to which Plaintiff has still not adequately responded).

It is an understatement to say that Plaintiff’s position is not proper. Produce all responsive documents, or confirm that there are none.

Request 23

Request No. 23 seeks “All documents relating to Plaintiff’s allegation that ‘Mr. Boyce returned home to California shortly after the photoshoot with Mr. Weber, in a state of extreme emotional distress,’ as set forth in paragraph 51 of the Complaint.”

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In the Initial Response, Plaintiff objects to the language of the request when in fact it merely quotes Plaintiff's allegation. Plaintiff also states that Plaintiff will produce all non-privileged responsive documents, "subject to" Plaintiff's absurd boilerplate objection to Plaintiff's own language. This is improper.

To further muddle up what should have been be a straightforward agreement to produce all responsive documents, you stated, in your June 1, 2018 letter, that you requested medical records from Mr. Boyce's provider, Kaiser and will produce those records on receipt. You need to produce all responsive records, not just what Kaiser may give you.

Accordingly, produce all responsive documents, including those withheld on the basis of objections interposed in the Initial Response and including those promised seven months ago in the June 1, 2018 letter, and log any responsive documents you believe are privileged. Insofar as you have not received the documents you claim you need from third parties, provide the dates you requested those documents, the identities of the third parties, and their responses.

Request No. 24

This Request seeks all documents relating to the "Bruce Weber Project" referenced in Paragraphs 54 and 58 of the Complaint. In the Initial Response, Plaintiff stated that he conducted a reasonable search but did not agree to produce all responsive documents because of the existence of another Request. Produce all documents responsive to this very straightforward Request.

Request No. 25

This Request seeks all documents relating to the quoted allegation in Paragraph 56 of the Complaint. In your June 1, 2018 letter, you (a) objected to the wording of the language in your own Complaint and contend the lack of precision of your allegation prevents you from formulating a response, (b) stated that you will produce all responsive communications with third parties and all responsive medical records (despite allegedly not being able to formulate a response), and (c) stated that Plaintiff is not "knowingly" withholding non-privileged responsive documents, without providing a privilege log and with no justification for the hedging.

This collection of contradictory and argumentative assertions is not a proper response to document request. Produce all responsive documents- not just the documents you promised to produce but didn't - and log all responsive documents you believe are privileged, or confirm that there are no responsive documents.

Request No. 26

This Request seeks all documents relating to the specified allegation from Paragraph 60 of the Complaint regarding alleged other acts and awareness of them by co-Defendants. In the

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Supplemental Response, you agreed to produce responsive documents, but only “subject to” your boilerplate objections. Yet, no responsive documents were then produced.

This is improper. Produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response and all responsive documents being withheld due to your objections, or confirm that there are no responsive documents.

Request Nos. 27 and 29

Request Nos. 27 and 29 seeks all documents relating to the quoted allegations in Paragraphs 65, 71, and 80 of the Complaint. In the Initial Response, Plaintiff (a) objected to the wording of the language of his allegations, (b) objected that certain responsive documents are in Defendants’ possession, which is beside the point, (c) objected on the basis of privilege presumably about responsive documents in Plaintiff’s possession, and (d) stated that “subject to” these objections, no non-privileged documents exist.

These are not proper responses to document requests. Produce all responsive documents, including responsive documents withheld on the basis of your objections, and log all responsive documents you believe are privileged, or confirm that there are no responsive documents.

Request No. 28

This Request seeks all documents relating to the quoted allegations in Paragraph 67 of the Complaint. In the Initial Response, Plaintiff (a) objected to the wording of the language in your own Complaint, (b) despite the alleged problems in the language of your Complaint, objected that responsive documents are equally available to both sides, (c) most creatively, objected that the request for documents on Plaintiff’s allegations somehow calls for Plaintiff to formulate a legal conclusion, and (d) stated that that “subject to” these objections, Plaintiff would produce non-privileged responsive documents.

Again, simply produce all responsive documents, including those documents withheld on the basis of your objections, and log all responsive documents you believe are privileged, or confirm that there are no responsive documents.

Request Nos. 30 through 36

These requests seek documents relating to the quoted allegations in Paragraphs 65, 71, 77, 78, 79, 81, 82, and 106. In your June 1, 2018 letter, you (a) objected to the wording of the language in your own Complaint and contend the lack of precision of your allegation prevents you from formulating a response, (b) stated that would produce only certain limited categories of documents (despite allegedly not being able to formulate a response to the Requests), but you did not produce them following the letter, and (c) stated that Plaintiff is not “knowingly” withholding non-

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privileged responsive documents, without providing a privilege log and with no justification for the hedging.

This is not a proper response to a document request. Produce all responsive documents - not just the documents you promised to produce but didn't - and log all responsive documents you believe are privileged, or confirm that there are no responsive documents.

Request Nos. 37 through 43

These Requests seeks categories of documents relating to alleged Plaintiff's alleged injuries and damages and documents concerning them. In the Supplemental Response, you agreed to produce responsive documents, but only "subject to" your old boilerplate objections. Yet, no responsive documents were then produced.

This is improper. Produce all responsive documents that you agreed to produce seven months ago in the Supplemental Response and all responsive documents being withheld due to your objections, or confirm that there are no responsive documents.

B. Other Outstanding Deficiencies Regarding Plaintiff's Document Production

1. Destroyed Evidence

In response to Request No. 2 in Plaintiff's Initial Response, Plaintiff admitted that he destroyed evidence by wiping clean his iPhone 5s. In response, I requested that you provide the 5s to Defendants for a forensic examination. Instead, however, you claim, in your June 1, 2018 letter, that Plaintiff unilaterally conducted some type of examination of the 5s and that Plaintiff was unable to recover responsive documents.

Given the foregoing, we demand the following: First, explain your statement that you were unable to retrieve responsive documents. Were you able to retrieve any documents? Would any of the documents you retrieved, if you were able to do so, be responsive to the Requests? Please clarify. Second, produce all documents relating to the examination including contact information on the person who conducted the examination, his/her CV, and the results of the examination. Third, provide the actual 5s for Defendants to examine and provide any protocols for examination that you believe may be warranted.

In addition, you state, in your June 1, 2018 letter, that "Plaintiff has disclosed that documents that were at one time in existence, but were subsequently lost, discarded, or destroyed." It is not clear from the statement if this refers to anything other than the iPhone 5s. Please clarify and provide necessary information and supporting documents.

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2. Lack of Emails in Plaintiff's Production

In response to our raising an issue about the lack of more than a couple of emails in Plaintiff's production, you disclosed to us, in your June 1, 2018 letter, that (a) Plaintiff unilaterally determined, with no advanced notice, proffer, or discussion, that search terms should be applied to restrict the e-mails for you to review for responsiveness, (b) having made that unilateral determination, Plaintiff also unilaterally determined, with no advanced notice, proffer, or discussion, the search terms to apply to the e-mails, (c) the search terms unilaterally chosen by Plaintiff are facially inadequate, even if search terms were warranted, and (d) the fact that so few e-mails were produced under these circumstances has had no impact on Plaintiff's view of his approach to searching e-mails.

Finally, while this is hardly the main point, it does not appear that emails that would be captured by your search terms were actually produced, because few, if any, emails have been produced between Plaintiff and the identified custodians.

None of this is acceptable. Jason Boyce is not a company. He is an unsuccessful model who has made extremely serious allegations against our clients. You need to search all of his e-mails for responsiveness. If you believe the volume of e-mails is too large for a full review, then provide us with the basis for this position so we can assess if we agree that search terms are appropriate, and in which case we would work with you to develop agreed search terms, or have go court if we cannot agree.

Further, your letter identifies two email accounts you searched with the search terms, but does not refer to an email account in the name of "jsaon boyce." (*See, e.g.*, P000556). Please explain and identify how many email accounts Mr. Boyce maintained or maintains.

3. Redactions

Plaintiff's Production includes Plaintiff's text messages with others regarding the allegations that are the subject of Plaintiff's Complaint. However, the names of individuals who were contacted have been redacted. As we explained in our April 10, 2018 letter, we cannot understand the basis for redacting the names of individuals with whom Plaintiff has discussed his allegations and it prevents us from pursuing discovery. We also noted that it appeared that no documents have been produced between Plaintiff and any of the individuals whose names have been redacted, even though it appears that those individuals whose names were redacted were contacted regarding Plaintiff's allegations.

In your June 1, 2018 letter, you state that, based on privacy concerns, Plaintiff will produce responsive communications with certain identifying information of third parties redacted, where these third parties identify themselves as alleged victims of Mr. Weber. This is not a valid basis for withholding discovery. Plaintiff brought this case and cannot cite privacy in response to discovery on his allegations.

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Accordingly, provide clean copies of the documents you provided in redacted form and ensure that all such responsive documents are produced.

4. Omitted Messages

In your June 1, 2018 letter, you stated that the omitted portions of messages would be produced,² but that has not happened. Please produce these omitted messages.

Please respond to this letter with seven days. We will make ourselves available if you would like to meet and confer.

Sincerely,



Daniel L. Brown

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

² Two portions of the text message chains included in Plaintiff's production of documents are incomplete. First, at P000083, Vance "Monty" Hooper's response to Plaintiff's December 1, 2017 message "Absolutely dude! Thank you Monty [praying hands emoji]," which bears a time stamp of December 4, 2017 at 4:54 PM, has been omitted from Plaintiff's production. Second, at P000154, Boyce's response to Jessica Pressler's January 25, 2018 message "Hey would you be ok with passing me [redacted]'s contact info? Is [sic] like to get something into the print issue that closes next week and it's kind of down to the wire...", which bears a time stamp of January 27, 2018 at 7:55 AM, has also been omitted from Plaintiff's production; while Plaintiff's message begins "Hi Jessica. So I've been," the remainder of the message was not produced.